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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHEMEHUEVI INDIAN TRIBE, *et al.*,

Plaintiffs,

vs.

JOHN McMAHON, *et al.*

Defendants.

Case No. 5:15-CV-01538-DMG (FFM)
[Case Assigned to: Hon. Dolly M. Gee,
Courtroom 8C]

**DEFENDANTS' OPPOSITION TO
REQUEST FOR JUDICIAL NOTICE
SUBMITTED IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
MOTION FOR SUMMARY JUDGMENT;
OR IN THE ALTERNATIVE, FOR
PARTIAL SUMMARY JUDGMENT
[FRCP 56]**

**Date: June 30, 2017
Time: 2:00 p.m.
Location: 350 W. 1st St.
Los Angeles, CA 90012
Courtroom 8C**

1 Plaintiffs ask this Court to take judicial notice of a Memorandum Opinion
 2 and Order in an “as-yet unpublished federal court decision” from the United
 3 States District Court, District of New Mexico. Although titled as being in support
 4 of their Opposition to Defendants’ Motion, the language of the request makes
 5 clear that they are attempting to use this document as evidence in support of their
 6 Motion, which they contend was not included because it is “very recent” and they
 7 only became aware of it after filing. To the extent they are attempting to use this
 8 in support of their Motion, it is improper. There is no citation to this new found
 9 “evidence”. More importantly, the request is also improper as evidence to support
 10 their Opposition here, as it is irrelevant.

11 Pursuant to Federal Rule of Civil Procedure Rule 201, the court may
 12 judicially notice a fact that is not subject to reasonable dispute because it:(1) is
 13 generally known within the trial court’s territorial jurisdiction; or (2) can be
 14 accurately and readily determined from sources whose accuracy cannot
 15 reasonably be questioned. (Fed. R. Civ. Proc. 201(b).) Although the Court may
 16 judicially notice of a variety of matters under this Rule, only relevant matters
 17 may be noticed. (See *City of Lodi v. M&P Invs.*, 308 F.Supp.2d 1137, 1143, fn. 6
 18 (E.D. Cal 2003, holding that judicial notice not appropriate where documents are
 19 irrelevant to the issues raised in the motion; *City & County of San Francisco v.*
 20 *Tutor-Saliba Corp*, 218 F.R.D. 219, 222-223 (N.D. Cal 2003), denying judicial
 21 notice in part because the document was irrelevant.)

22 In this case, the Memorandum Opinion and Order was filed in the District
 23 of New Mexico and has absolutely no precedential effect on the decision of this
 24 Court. Moreover, it does not address the issues in this case—whether Section 36
 25 was is within the boundaries of the Reservation or constitutes “Indian Country.”
 26 In fact, it does not involve a dispute regarding the establishment of the
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1 Reservation or the Tribe whatsoever. A general discussion regarding the Tenth
2 Circuits test for determining whether a piece of land is "Indian Country" has no
3 relevance here, and is not properly subject to judicial notice on this Motion.
4

5 Based on the foregoing, the Court should deny Plaintiffs' Request.

6 Date: June 16, 2017

SLOVAK BARON EMPEY MURPHY & PINKNEY LLP

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8 By: /s/ Shaun M. Murphy
9 Shaun M. Murphy, Esq.
10 Attorney for Defendants
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15 **CERTIFICATE OF SERVICE**

16 The undersigned hereby certifies that, on June 16, 2017, a true and correct
17 copy of the foregoing DEFENDANTS' OPPOSITION TO REQUEST FOR
18 JUDICIAL NOTICE SUBMITTED IN SUPPORT OF PLAINTIFFS'
19 OPPOSITION TO MOTION FOR SUMMARY JUDGMENT; OR IN THE
20 ALTERNATIVE, FOR PARTIAL SUMMARY JUDGMENT [FRCP 56] was
21 served on Plaintiffs in accordance with the Federal Rules of Civil Procedure.
22

23 By: /s/ Shaun M. Murphy
24 Shaun M. Murphy
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